



FILE: PA04-0102

DATE: May 18, 2005
TO: File/Record/Applicant
FROM: Tim Neely, Director RDMD/ Planning and Development Services
SUBJECT: Planning Application PA04-0102 for Site Development Permit
APPLICANT: One Pelican Hill Road North, L.P., John McMonigle

I. NATURE OF PROJECT:

BACKGROUND

The Newport Coast Planned Community (NCPC) contains 9,493 acres in the coastal foothills of Orange County. Because this area is generally within the Coastal Zone as defined by the California Coastal Act of 1976, a Local Coastal Program (LCP) was prepared and certified by the Orange County Board of Supervisors and the California Coastal Commission in the mid-1990s. In accordance with Chapter 10, "Discretionary Permits and Procedures" of the certified LCP, a Coastal Development Permit (CDP) was approved for Planning Areas 1C-2 and 11A (PA 94-0172) by the Orange County Planning Commission on January 31, 1995 (Resolution No. 95-01). That approval allowed for the construction of 252 single-family residences and divided Planning Area 1C-2 into five (5) separate Development Areas.

The proposed project is located within Development Area 1C-2e, which lies along the northeast side of Pelican Hill Road North adjacent to Buck Gully (Recreation Planning Area 11A). The site was created by the grading for Pelican Hill Road North and is identified as Tract number 15376. It was initially approved as a 14-acre community facility with tennis courts, restrooms and parking facilities. On February 13, 1997 the Orange County Zoning Administrator approved Coastal Development Permit (PA96-0163) providing for a custom single-family residence within Development Area 1C-2e, and replacing the uses proposed by the prior CDP (PA94-0172). That approval demonstrated that the changes made were consistent with the Irvine Coast LCP Statistical table with regard to maximum number of units, gross density and planning area acreage. Specifically, it provided for the following entitlements:

1. Permit the future implementation of a single-family custom home and accessory structures subject to administrative site review and approval of a Site Development Permit;
2. Establish a Fuel Modification Program for the proposed home site, in cooperation with the Orange County Fire Authority, without subsequent discretionary action by the Planning Commission;

3. Create two points of ingress/egress along Pelican Hill Road, without subsequent discretionary action by the Planning Commission;
4. Permit recordation of Tract Map No 15376; and
5. Permit a technical revision to the Irvine Coast PC Statistical Table, consistent with the Irvine Coast LCP Section II-11.

Consistent with the directive of CDP (PA 96-0163) in November 2004, the applicant submitted an application for an administrative site development permit. Approval of this Site Development Permit satisfies Condition of Approval number 39 of PA96-0163, which requires this Site Development Permit prior to the issuance of a grading permit.

The Newport Coast LCP designates PA 1C for High Density Residential development (6.5-18.0 dwelling units per acre), which allows for both multi-family and single-family detached housing projects. The lot size for this project is 14 acres. The buildable portion of the lot (Lot 1) as shown in the site plan is approximately 4.2 acres. The density of this project is .07 dwelling units per acre and well below the allowable density. The remaining 9.8 acres (Lot A) consists of privately owned open space, which is encumbered by a scenic easement in favor of the County. The recorded tract map provides for the installation and maintenance “of landscaping, landscape irrigation systems and related uses” within Lot A. The Grant of Easement reserves the right to the applicant to install utilities (including storm drain, sewer, transmission lines etc.), and indicates it will be used as:

“...a fuel modification area to be preserved by the Grantor in accordance with the fuel modification standards required by the Orange County Fire Department, and (ii) pedestrian trail area. Improvements to the Property shall be restricted to 15 percent of the total area of any individual Lot and may include open fencing) such as tubular steel fencing) which does not constitute a visual barrier or wall impeding wildlife circulation, necessary flood control works, and regional hiking trails. Residential development of any form is prohibited on the property.

PROJECT PROPOSAL

The applicant proposes the construction of a new multi-level 16,760 square feet single-family dwelling, a 1,485 square feet guest house/second residential unit (1,500 square feet is permitted in the Newport Coast PC/LCP) and accessory uses including a two level gatehouse, tennis court, lake water feature and pool pavilion, horse stables and other typical estate uses. Grading on the site is balanced with an estimated 23,500 cubic yards of cut and 23,500 cubic yards of fill, all within Lot 1 and Lot A.

The proposal will be developed in several phases. The first phase is the construction of the gatehouse with a 605 square foot residential dwelling unit on the second level, construction of gates, walls and fencing along Pelican Hill Road, and grading. During this phase, the gatehouse dwelling unit, with a two-car carport, is considered the principal dwelling unit on the site. The second phase is the construction of the main dwelling, the guesthouse/second residential unit and perhaps the construction of the other accessory uses. Upon issuance of a use and occupancy permit for the main dwelling unit, the dwelling unit above the gatehouse becomes the second residential unit. Upon issuance of a use and occupancy permit for the main guesthouse/second residential

unit, the residential unit above the gatehouse will be converted into non-habitable spaces such as storage or gatehouse office space.

The original site plan submitted has been revised over the course of several months. The applicant has made considerable modifications within Lot A (private open space lot) at the request of the County as shown below.

- The applicant initially proposed retaining walls, a portion of the tennis court, and a golf practice area within Lot A. Although these uses have historically been permitted within Orange County Fire Authority fuel modification zones, County staff requested the applicant remove these improvements and the applicant agreed to do so.
- The applicant was required to minimize grading within Lot A and to redesign the grading plan to maintain or create undulating landforms reflective of the natural topography of the site. The newly submitted grading plan reduced the grading of the lot significantly—from about 27% to about 15% of the Lot.
- The applicant has redesigned the fuel modification plan, which overlies Lot A, to minimize visual impacts from adjoining properties and Buck Gully, to utilize a native/drought tolerant plant palette consistent with the guidelines of the Natural Communities Conservation Plan.
- Although the applicant owns Lot A in fee, he was required to obtain a County Permit for the fuel modification clearing activities in this area. Additionally, the applicant is being conditioned to submit a Fuel Modification Maintenance Agreement as explained in detail in the analysis section of this report.

PROJECT ANALYSIS

Buck Gully Area

Existing entitlements to this tract anticipate the use of County land located in Buck Gully (outside of the NCCP Reserve) for fuel modification and drainage. This usage is consistent with the use reservations included in the Irrevocable Offer of Dedication for Buck Gully from The Irvine Company, which was accepted by the County in 1999 (Instrument No 19990518016).

Because it is expected that the City of Newport Beach will annex Buck Gully and adjacent scenic easements, the County has discussed this application with the City and incorporated the City's comments. The City requested that the applicant be conditioned to direct runoff from the site to Buck Gully, rather than Morning Canyon (which serves as a collector for runoff from the street and curb adjacent to the project) in order to assist in the City's water quality obligations imposed by the National Pollutant Discharge Elimination System. The applicant has been so conditioned.

Ingress and Egress

Access to the site will be from two points along Pelican Hill Road North. The locations of the driveways are consistent with the restriction of the CDP Section II-A entitled "Site Development

Plan” which allows for them to be constructed within 200-feet, on either side of the locations shown on the Development Plan/Grading Plan (Exhibit 2.1) in the CDP.

Accessory Structures.

The accessory uses proposed by the applicant are specifically permitted per the applicable LCP, CDP and Zoning Code regulations. These include the garage/carport, the swimming pool, the tennis court, gatehouse (when the main dwelling is constructed), pool pavilion, fence and gates and other accessory uses.

The applicant proposes to build a single detached 1,485 square feet (living area) guesthouse/second residential unit, or caretaker unit, on the building site. Per the site development standards of the NCPD, this structure is limited to 1,500 square feet on building sites of a minimum of 10,000 square feet.

The proposed stables and riding area are an allowable use per the LCP, which allows for the noncommercial keeping of pets and animals per Zoning Code Section 7-9-146.3. This use is consistent Zoning Code Section 7-9-146.3 which prohibits horse stables within twenty-five (25) feet of any residential window located on adjoining building sites. Conditions have been applied to the proposal to address the use of the stables.

Building Setbacks

The project as proposed is consistent with the applicable building setback requirements. The specific building setbacks for this lot (main dwelling and second residential unit) include a 40-foot minimum setback from Pelican Hill Road and a 20-foot structural setback from the residential lot line as shown on the site plan. Pursuant to CDP Section II-A entitled “Site Development Plan” the privacy/security walls along Pelican Hills Road North are setback a minimum of 15-feet from the road right of way, and the private entry gates are set back at least 32 feet from the back of the sidewalk along Pelican Hill Road North.

Fuel Modification

The project includes a fuel modification plan that has been reviewed in detail by the County. The conceptual fuel modification was previously approved by the Orange County Fire Authority prior to the approval of Tract 15376. The County’s level of knowledge and expertise regarding the beneficial use of native plants within fuel modification zones has increased considerably within the last 10 years. Accordingly, within the Newport Coast the County has administratively required applicants to utilize an updated plant palette that was not contemplated when the Coastal Development Permit was initially approved. This provides for an improved landscape from both an environmental and fire-safety standpoint. In this case, for example, the County is precluding the applicant from using certain plants (i.e., *Eleagnus pungens*, *Myoporum pacificum*, *Baccharis pilularis* ‘Twin Peaks’, and *Coprosma kirkii*) despite the fact they had prior approval through the CDP.

The County has approved a fuel modification plan (which still requires OCFA approval) including native, drought tolerant plants reflective of the existing flora of Buck Gully. Additionally, the applicant proposes to use vineyards within the fuel modification area. The vines have been appropriately set back from Buck Gully to minimize the possibility of spread onto County land. The use of the vineyards will be further conditioned by the County as follows:

1. Prior to the installation of the vineyard, the applicant will be required to obtain the approval by the Director, Planning and Development Services, of a vineyard management plan prepared by a properly qualified consultant. The plan shall address the suitability of the topography and soil for the proposed vineyard; plant selection, inspection and maintenance practices to eliminate the spread of vines into adjacent lands; and the fertilization and pest control best management practices that will not allow for the escape of pollutants into Buck Gully.
2. Prior to the installation of any new plants into the fuel modification area owned by the County, the applicant will sign a Fuel Modification Maintenance Agreement that requires the owner of the property to maintain the fuel modification area owned by the County in a manner consistent with the Orange County Fire Authority Guidelines and to indemnify the County for any costs associated with maintaining the fuel modification area, should it be abandoned or ignored.

Environmental Mitigation on County Land

The applicant voluntarily informed the County that historical grading had taken place off site, within Buck Gully. Accordingly, applicant coordinated with the County and other the appropriate resource agencies, including U.S. Fish and Wildlife, to create an acceptable mitigation plan that includes the removal of invasive plant species off site, and the rehabilitation of other County lands. The conditions of the mitigation plan and fuel modification plan were coordinated so that the project would provide the most comprehensive environmental benefits to the natural community. As a result, the applicant was conditioned to:

1. Prepare a Tree Relocation Plan identifying *Quercus dumosa* plants to be relocated to other onsite and offsite locations, to the satisfaction of Director, Planning and Development Services
2. Trim existing oaks per ISA and OCFA standards and have the work overseen by a certified arborist
3. Consult with OCFA and endeavor to distribute chipped, pruned and cleared vegetation onto manufactured slopes and graded areas only. No mulch shall be applied to native existing soil.
4. Perform biological surveys for foothill Mariposa lily, many-stemmed dudleya, coastal scrub oak, and hedge-leaved horkelia.
5. Eradicate artichoke thistle within the scenic preservation easement and park fuel modification areas per direction of a qualified biologist/restoration ecologist.
6. Prepare a plan for relocation into the NROC reserve of any rare plants potentially impacted by the fuel modification or grading plans to the extent mitigation for these impacts has not already been achieved pursuant to the NCCP.

CONCLUSION:

The subject proposal conforms to the site development standards established by the Coastal Development Permit under PA96-0163. The applicable conditions of approval PA96-0163 and Tentative Tract Map No. TT14367 Revised (Vesting) has been incorporated as conditions of approval. New conditions of approval related to water quality, NCCP, Harbor Beaches and Parks, OCFA fuel modification and the addition of a horse stable have also been incorporated in the conditions of approval.

II. REFERENCE: (Authority for Administrative action is given by what ordinance, regulation, etc.) Orange County Zoning Code section 7-9-150 "Discretionary Permits and Procedures" and Newport Coast Planned Community/Local Coastal Program development regulations.

III. ENVIRONMENTAL DOCUMENTATION:

The proposed project is covered by Final EIR 528, previously certified on 3/11/92, and Addendum PA040102. Prior to project approval, this EIR and Addendum were found adequate to satisfy the requirements of CEQA by the Director. Appendix A contains the required CEQA Finding.

IV. CERTIFICATION:

I hereby certify that the subject proposal has been Conditionally Approved as noted below.

Tim Neely, Director
RDMD/Planning and Development Services

WVM

FOLDER: My Documents/Newport Coast/PA04-0102 Staff

ATTACHMENTS:

Appendix A - Findings

Appendix B - Conditions of Approval

APPEAL PROCEDURE

Any interested person may appeal the decision of the Director on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.